THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION Nos. 705 of 2005 &

19370 of 2005

Date: .09.2005

W.P.No. 705 of 2005:

Between:

Sri Devineni Venkata Ramana Praneethala Lift
Irrigation Co-operative Society Ltd., Eturu village,
Chanderlapadu mandal, Krishna district,
Regd. No.G. 3089, rep. by its person-in-charge
Committee (Chief Promoter) Anumolu Hari
Lakshmi Narayana

…Petitioner

and

1)The Managing Director, Andhra Pradesh
State Irrigation Development Corporation Ltd.,
(A state Government Undertaking), Mytrivanam,
Ameerpet, Hyderabad & another

…Respondents

W.P.No. 19370 of 2005:

Between:

Anumolu Hari Lakshminarayana, s/o. Koti Narasim,

R/o. Eturu village, Chanderlapadu mandal, Krishna dist.

…Petitioner

and

1)The Commissioner for Co-operation & Registrar

of Co-operative societies, A.P., Hyderabad

…Respondents

COMMON ORDER:

Challenging the action of the respondents in seeking to hand over the lift irrigation scheme, Eturu located on the bank of river Krishna to any society other than the Writ Petitioner society which is already in possession and physical charge of scheme pending conversion of the petitioner society from the purview of the A.P. Co-operative Societies Act, 1964 into the society under A.P. Mutually Aided Co-operative Societies Act, 1995, Writ Petition No.705 of 2005 is filed.

Challenging the action of the respondents in refusing to convert/register Sri Devineni Venkata Ramana Praneethala Lift Irrigation Co-operative Society Limited, Regd. No.G. 3089, Eturu village, Chanderlapadu mandal, Krishna district under Section 4 of the A.P. Mutually Aided Co-operative Societies Act, 1995 by proceedings vide Rc. No. 1472/05/A-2, dated 11.05.2005 of the second respondent at the instance of the first respondent and also

the action of the respondent no.2 in registering the third respondent society under Section 4 of the A.P. MACS Act, and for consequential direction to the respondents to convert/register the society into a society under Section 4 of the A.P. MACS Act by cancelling the registration dated 30.12.2004 of the third respondent under Section 4 of the A.P. MACS Act, the Writ Petition No. 19370 of 2005 is filed.

It is the case of the petitioner in Writ Petition No.705 of 2005 that the petitioner society was established and registered under the A.P. Co-operative Societies Act, 1964 (for short, 'the Act, 1964') to look after establishment affairs of the pumping scheme. A High Tension electricity connection was also sanctioned to the society. The scheme is being managed by the adhoc committee being appointed and extended by the Deputy Registrar of Co-operative Societies under Section 32(7)(a) of the Act, 1964. Except a formal handing over of the scheme to petitioner, the affairs and management of the scheme is being looked after by the petitioner. But, due to change of Government and political influence, the second respondent is trying hand over the society to others. It is further stated that earlier the respondents wanted to convert the petitioner-society into purview of A.P. Mutually Aided Co-operative Societies Act, 1995 (for short, 'the Act, 1995); that when the petitioner made an application therefor, the same is being delayed on one pretext or other; the said action of the respondents is illegal and politically motivated; hence, the Writ Petition.

It is the case of the petitioner in Writ Petition No.19370 of 2005 that he is the Chief Promoter of Sri Devineni Venkata Ramana Praneethala Lift Irrigation Co-operative Society Ltd., Regd. No. G.3089, Eturu village, Chanderlapadu mandal, Krishna district, which was established to look after the affairs of Lift Irrigation Scheme of Eturu village, and a high tension election connection was also given to the scheme. Except formally handing over the scheme by way of an agreement between the society and APSIDC, the affairs of the society is being looked after by the petitioner; but, due to change of

Government and political influence, the second respondent is trying hand over the society to others on the ground that the society was not registered under the Act, 1995 and so, it is not entitled to manage the affairs of the lift irrigation scheme; to avoid conflicts, petitioner made application on 09.03.2005 to the second respondent seeking the conversion of the society into the one under Section 4 of the Act, 1995 and also filed the first Writ Petition No.705 of 2005 questioning the action of the respondents; process of the conversion is being delayed on one ground or the other; hence, the Writ Petition.

The respondents filed counter affidavit in Writ Petition No. 705 of 2005 denying the allegations in the petition and contending that the term of person-in-charge of petitioner society expired on 04.02.2005 and therefore, there is no managing committee or person-in-charge at present; the Corporation is a necessary party to the Writ Petition and so, the writ petition are liable to be dismissed in view of non-joinder of necessary parties; the petitioner-society has no *locus standi* to file the Writ Petition on the above two grounds; as required by the circular instructions of first respondent dated 03.10.1996, the petitioner is not a registered body under the Act, 1995, and as per the above circular instructions, the scheme has to be handed over to the beneficiary committee/society registered under the Act, 1995; hence, the Writ Petition is liable to be dismissed.

The learned counsel for the petitioners contended that for investigation purpose, petitioner-society contributed huge amounts; that the petitioners also applied for H.T. electricity connection to Eturu Lift Irrigation Scheme and the electricity supply was also sanctioned; but, in the mean while, due to change of Government, at the instance of local Member of Parliament, the first respondent is trying to hand over the irrigation scheme to third parties; that the petitioner society was registered under the Act, 1964; when the Government issued instructions to convert the society under the Act, 1995, the

conversion was not done. The petitioners also challenges the action of the respondents in refusing to convert the petitioner-society to a society under the Act, 1995 and also the proceedings of the second respondent dated 11.05.2005.

On the other hand, the learned counsel for the respondents contended that the Writ Petition itself is premature in view of the fact that it is for the respondents to entrust the lift irrigation as per the rules and regulations; so far, no entrustment was done. He further contended that term of the person-in-charge of the petitioner expired on 04.02.2005 and there is no managing committee or person-in-charge in existence in the eye of law and the scheme is yet to be commissioned; that simply because the members gave some amounts towards investigation purpose, the same does not confer any right on the petitioner unless the respondents take a decision to entrust the scheme to them; there are no grounds to allow the Writ Petitions and the same are liable to be dismissed.

The Eturu Mutually Aided Lift Irrigation Co-operative Society Limited, Eluru got itself impleaded in Writ Petition No.705 of 2005. According to it, a beneficiary committee was formed for the purpose of operating and financing the survey work and an amount of Rs. 67,500/- was contributed by all the villagers who will be benefited in the scheme and it is a duly registered society under the Act, 1995 and the respondents have to hand over the scheme to the eligible society; therefore, the counsel for the implead petitioner prays to dismiss the Writ Petitions.

As per G.O. No. 34, dated 30.03.2002, the Government formulated five lift irrigation schemes viz. Eturu, Pallampally, Pokkunuru, Poppuru and Punnavalli in Krishna district. The schemes are expected to provide irrigation facilities for an extent of 2192 hectares. The said schemes have been agreed by NABARD. In this case, we

are concerned with Eturu lift irrigation scheme on Krishna River in chanderlapadu mandal, Krishna district for an amount of
Rs. 241.06 lakhs, to irrigate ayacut of 1350 acres. Technical sanction has been accorded therefor. Survey and investigation charges have been paid. According to the petitioner he paid the amount of Rs.27,000/- on 29.12.2001 by way of Demand Draft and the balance amount of Rs.40,500/- by way of Demand Draft on 11.05.2002, but according to implead petitioner, a beneficiary committee was formulated with the villagers for the purpose of operating and financing the survey work and the amounts of Rs.27,000/- and Rs.40.500/- was contributed by all the villagers, who will be benefited under the scheme. It is denied that the petitioner alone paid the amount personally.

It is not in dispute that the construction and formulation of the lift irrigation scheme was entrusted to A.P. State Irrigation Development Corporation Limited, which vide its proceedings dated 03.10.1996, issued necessary directions with regard to handing over of the commissioned lift irrigation scheme to the beneficiary committee. In the first instance, detailed guidelines were issued by circular dated 15.12.1995 for entrusting the work to the beneficiary committees. Later, a decision has been taken that the lift irrigation schemes should be handed over to the beneficiary committees registered under the Act, 1995. Accordingly, all the Executive Engineers were directed to expedite the formation of the beneficiary committees into registered society so as to hand over the scheme to such registered body. However, in order that the delay in registering of the society should not come in the way of handing over the maintenance of lift irrigation scheme, the schemes be handed over to adhoc committees so as to avoid maintenance by the corporation. These circular instructions indicate that when there is a delay in registration of the society under the Act, 1995, the scheme may be handed over to the adhoc committee though it was not registered. Admittedly, in this case, the third respondent (party got impleaded) is a society

registered under the Act, 1995 on 30.12.2004 with registration no. AMC/KNA/ DCO/2004/30, Eturu, Chandarlapadu, Krishna district. Though the petitioner-society is also admittedly registered under the Act, 1964, but it is not admittedly registered or converted into the society under the Act, 1995. The contention of the learned counsel for the petitioner is that since the petitioner society is also registered under the Act, 1964, but due to change in the political scenario, it could not be registered under the Act, 1995 and the proposals for conversion have been returned arbitrarily.

In the first instance, it is to be seen whether the society is eligible for award of maintenance of lift irrigation scheme or not, since it is not registered under the Act, 1995. It is pre-mature to claim any relief in Writ Petition No. 705 of 2005 in view of the fact that as on today, the respondents have not taken any decision to hand over the scheme to any of the beneficiary committee or society registered under the Act, 1995. A decision is yet to be taken by the respondents to hand over the scheme for maintenance after execution. Therefore, no right of the petitioner is infringed so as to issue a Mandamus to the respondents. It is for the respondents to take appropriate decision in accordance with law and rules and regulations. Therefore, in the absence of infringement of any right, the Writ Petition is devoid of merits and is liable to be dismissed.

When the petitioner in Writ Petition No.19370 of 2005 submitted a proposal as President of Sri Devineni Venkata Ramana Praneethala Lift Irrigation Co-operative Society Ltd., Eturu village, Chanderlapadu mandal, Krishna district, to convert the said society into the Act, 1995, the District Co-operative Officer vide proceedings dated 06.04.2005 stated that one lift irrigation co-operative society was already registered under the Act, 1995 in the name of Eturu Mutually Aided Lift Irrigation Co-operative Society Limited on 30.12.2004 and if the present co-operative society is converted from the Act, 1964 into a

society under the Act, 1995, the two similar types of societies come into existence in a single village and that leads to unhealthy competition to claim the reigns of the scheme to be commissioned at Eturu village with the involvement of financial assistance from the Government. Therefore, he sought clarification from the Commissioner for Co-operation and Registrar of Co-operative Societies, A.P., Hyderabad, who in turn instructed him to get the members of Sri Devineni Ramana Praneethala Lift Irrigation Co-operative Society Limited admitted in Eturu Mutually Aided Lift Irrigation Co-operative Society Limited, and accordingly, the impugned proceedings have been issued. After application of mind by the District Co-operative Officer and after seeking clarification from the Commissioner for Co-operation and Registrar of Co-operative Societies, the impugned proceedings have been issued. The reason for not converting Sri Devineni Ramana Praneethala Lift Irrigation Co-operative Society Limited from the Act, 1964 to the Act, 1995 is that two societies will come into existence if the conversion is permitted, which leads to unhealthy competition in respect of one lift irrigation scheme. Therefore, there is nothing wrong in issuing the impugned proceedings by the District Co-operative Officer after seeking clarification from the Commissioner for Co-operation and Registrar of Co-operative Societies to admit the members of Sri Devineni Ramana Praneethala Lift Irrigation Co-operative Society Limited into Eturu Mutually Aided Lift Irrigation Co-operative Society Limited. Therefore, the action of the respondents 1 and 2 can not be said to be illegal or arbitrary. Simply because the Chief Promoter filed the Writ Petition No.19370 of 2005, the relief can not be granted in view of the fact that the Writ Petition is not filed by the aggrieved party. In view of the fact that there is no managing committee or person-in-charge to Sri Devineni Ramana Praneethala Lift Irrigation Co-operative Society Limited, the petitioner claims to be its Chief Promoter. As a President, he sent the proposals, but as on the date of filing the Writ Petition, he ceases to be the President.

Therefore, the Writ Petitions are devoid of merits and are, accordingly, dismissed. No costs.

(K.C.Bhanu, J.)

.09.2005

DRK